

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ARIZONA**

Edmond Gasaway,

Petitioner,

v.

Louis W Winn, Jr.,

Respondent.

No. CV-13-00270-TUC-RCC

ORDER

Pending before the Court is a Report and Recommendation (“R & R”) prepared by Magistrate Judge Charles R. Pyle. Doc. 14. Magistrate Judge Pyle recommends that the Court denies Petitioner Edmond Gasaway’s petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Gasaway has filed an objection. For the foregoing reasons, the Court shall adopt the R & R.

The duties of the district court, when reviewing a R & R of a Magistrate Judge, are set forth in Rule 72(b) of the Federal Rules of Civil Procedure and 28 U.S.C. § 636(b)(1). The district court may “accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate judge.” Fed.R.Civ.P. 72(b), 28 U.S.C. § 636(b)(1). When the parties object to a R & R, “[a] judge of the [district] court shall make a de novo determination of those portions of the [R & R] to which objection is made.” 28 U.S.C. § 636(b)(1); *see Thomas v. Arn*, 474 U.S. 140 (1985). However, in the absence of a timely objection, the Court “need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” Fed.R.Civ.P.

1 72(b), Advisory Committee Notes (1983); *see also United States v. Reyna-Tapia*, 328
2 F.3d 1114, 1121 (9th Cir. 2003).

3 The factual background in this case is thoroughly detailed in Magistrate Judge
4 Pyle's R & R. This Court fully incorporates by reference the Background and Discussion
5 sections of the R & R into this Order.

6 In his objections to the R & R, Gasaway reargues the same contentions that
7 Magistrate Judge Pyle rightfully found to be unconvincing. Gasaway also argues that the
8 "some evidence" standard does not apply to him because "it is undisputable that Lt.
9 Halladay did not return documents" to him. That is incorrect. Due process only requires
10 that disciplinary findings be supported by "some evidence" in the record. *Superintendent,*
11 *Mass. Corr. Inst., Walpole v. Hill*, 472 U.S. 445, 454-55. This standard applies to all
12 disciplinary findings, including the findings at issue here. Because, as Magistrate Judge
13 Pyle notes, there is some evidence to support the disciplinary findings, Gasaway's
14 petition must be denied.

15 Accordingly,

16 **IT IS HEREBY ORDERED** that Magistrate Judge Pyle's Report and
17 Recommendation is **adopted**. Petitioner Gasaway's petition is **denied**. Doc. 14.

18 **IT IS FURTHER ORDERED** that the Clerk of Court is directed to close the
19 case.

20 Dated this 29th day of July, 2016.

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24 Raner C. Collins
25 Chief United States District Judge
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